

# House Daily Reader

**Monday, February 14, 2005**

Bills Included				
HB 1154	HB 1175	HB 1210	HB 1237	HB 1240
HB 1248	HB 1253	SB 12	SB 41	SB 73
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# State of South Dakota

EIGHTIETH SESSION  
LEGISLATIVE ASSEMBLY, 2005

547L0705

HOUSE LOCAL GOVERNMENT COMMITTEE

ENGROSSED NO. **HB 1154** - 02/08/2005

**This bill has been extensively amended (hoghoused) and may no longer be consistent with the original intention of the sponsor.**

Introduced by: Representatives Hanks, Brunner, Elliott, Hennies, Kraus, and McLaughlin  
and Senators McCracken and Nesselhuf

1 FOR AN ACT ENTITLED, An Act to limit municipal annexation near regional airport  
2 authorities.

3 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF SOUTH DAKOTA:

4 Section 1. That § 9-4-12 be amended to read as follows:

5 9-4-12. No other municipality may annex any territory within one and one-quarter miles of  
6 any parcel of land operated as a municipal airport by an airport board organized pursuant to  
7 ~~chapter 50-6~~ chapters 50-6 and 50-6A. However, if the governing body of the airport-operating  
8 municipality consents, by resolution, to such a proposed annexation by another municipality,  
9 the provisions of this section do not apply to the extent of the waiver provided in the consent  
10 resolution of the airport-operating municipality.



# State of South Dakota

EIGHTIETH SESSION  
LEGISLATIVE ASSEMBLY, 2005

814L0555

HOUSE COMMERCE COMMITTEE ENGROSSED NO.

**HB 1175 - 02/10/2005**

**This bill has been extensively amended (houghoused) and may no longer be consistent with the original intention of the sponsor.**

Introduced by: Representatives Van Etten, Cutler, Dennert, Dykstra, Frost, Garnos, Glenski, Hunhoff, Krebs, McCoy, McLaughlin, Michels, O'Brien, Sebert, Vehle, Weems, and Wick and Senators Knudson, Abdallah, Bogue, Broderick, Duniphan, Earley, Hansen (Tom), Kelly, Koskan, McCracken, McNenny, Moore, and Peterson (Jim)

1 FOR AN ACT ENTITLED, An Act to extend certain lien provisions to physicians and  
2 chiropractors.

3 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF SOUTH DAKOTA:

4 Section 1. That § 44-12-1 be amended to read as follows:

5 44-12-1. Any person, association, limited liability company, corporation, county, or other  
6 institution, including a municipal corporation, maintaining a hospital licensed under the laws  
7 of the State of South Dakota that furnishes hospitalization or other service of any other nature  
8 in the treatment of or in connection with an injury not covered by the Workers' Compensation  
9 Act, or any physician licensed pursuant to chapter 36-4 or any chiropractor licensed pursuant  
10 to chapter 36-5 who furnishes any service of any nature in the treatment of or in connection with  
11 an injury not covered by the Workers' Compensation Act, if the injured party asserts or  
12 maintains a claim against another for damages on account of the injury, has a lien upon that part  
13 going or belonging to the injured party of any recovery or sum had or collected or to be collected



1 by the injured party, or by the injured party's heirs or personal representatives in case of the  
2 injured party's death, whether by judgment or by settlement or compromise to the amount of the  
3 reasonable and necessary charges of the hospital, physician, or chiropractor for the treatment,  
4 care, and maintenance of the injured party ~~in the hospital~~ by the provider up to the date of  
5 payment of the damages.

6 Section 2. That § 44-12-4 be amended to read as follows:

7 44-12-4. No such lien ~~may be~~ is effective, however, unless a written notice containing the  
8 name and address of the injured party, the date of occurrence of the injury, the name and  
9 location of the hospital, physician, or chiropractor, and the name of the person, firm, limited  
10 liability company, or corporation alleged to be liable to the injured party for the injuries  
11 received, is filed in the office of the register of deeds of the county in which the hospital is  
12 located or health care services for the injury were provided, before the payment of any moneys  
13 to the injured party, the injured party's attorneys or legal representative, as compensation for the  
14 injury.

15 Section 3. That § 44-12-5 be amended to read as follows:

16 44-12-5. Each register of deeds shall provide a suitable, well-bound book to be called the  
17 hospital and medical care provider lien docket in which, upon the filing of any lien claim under  
18 the provisions of this chapter, the register of deeds shall enter the name and address of the  
19 injured person, the name of the person, firm, or corporation alleged to be liable for the injury,  
20 the date of occurrence of the injury and the name and location of the hospital, physician, or  
21 chiropractor making the claim. The register of deeds shall make a proper index of the claim in  
22 the name of the injured person and shall charge a fee in accordance with subdivision 7-9-15(3).

23 Section 4. That § 44-12-6 be amended to read as follows:

24 44-12-6. The hospital, physician, or chiropractor shall also mail, postage prepaid, a copy of

1 the notice required by § 44-12-4 with a statement of the date of filing of the notice to the person,  
2 firm, limited liability company, or corporation alleged to be liable to the injured party for the  
3 injury sustained before the payment of any moneys to the injured party, the injured party's  
4 attorney or legal representative, as compensation for the injury.

5 Section 5. That § 44-12-7 be amended to read as follows:

6 44-12-7. ~~Such~~ The hospital, physician, or chiropractor shall mail a copy of ~~such the~~ notice  
7 to any insurance carrier which has insured ~~such the~~ person, firm, or corporation against such  
8 liability. ~~Such~~ The person, firm, or corporation alleged to be liable to the injured person shall,  
9 upon request of the hospital, physician, or chiropractor, disclose the name of the insurance  
10 carrier which has insured ~~such the~~ person, firm, or corporation against such liability.

11 Section 6. That § 44-12-8 be amended to read as follows:

12 44-12-8. Any person making any payment to ~~such the~~ injured party or to the injured party's  
13 attorney, heir, or legal representative as compensation for the injury sustained, after the filing  
14 and mailing of the notice, without paying to the hospital, physician, or chiropractor the amount  
15 of its lien or so much thereof as can be satisfied out of the moneys due under any final judgment  
16 or compromise or settlement agreement, after paying the amount of any prior lien, is liable, for  
17 a period of one year from the date of payment of moneys to the injured party or the injured  
18 party's heir, attorney, or legal representative, as provided in this section, to the hospital,  
19 physician, or chiropractor for the amount which the hospital, physician, or chiropractor was  
20 entitled to receive as provided in this section. Any such hospital, physician, or chiropractor may,  
21 within such period, enforce the lien by a suit at law against the person, firm, limited liability  
22 company, or corporation making ~~such the~~ payment.

23 Section 7. That § 44-12-9 be amended to read as follows:

24 44-12-9. Any person, firm, or corporation legally liable for ~~such the~~ lien or against whom

1 a claim ~~shall be~~ is asserted for compensation for ~~such the~~ the injury, ~~shall be permitted~~ may, after  
2 waiver or expiration of any privilege granted the injured party under the provisions of § 19-2-3  
3 or any other statute, ~~to~~ examine the records of any such hospital, physician, or chiropractor in  
4 reference to ~~such the~~ the treatment, care, and maintenance of ~~such the~~ the injured person, with respect  
5 to the injuries arising out of ~~said the~~ the accident.

6 Section 8. That chapter 44-12 be amended by adding thereto a NEW SECTION to read as  
7 follows:

8 If after having filed a lien pursuant to this chapter, the hospital, physician, or chiropractor  
9 is afterward satisfied by payment, foreclosure, compromise, or other method, the lienholder shall  
10 file a satisfaction with the register of deeds within thirty days of payment.

11 Section 9. That chapter 44-12 be amended by adding thereto a NEW SECTION to read as  
12 follows:

13 The existence and amount of a lien filed pursuant to this chapter is inadmissible in the legal  
14 proceeding in which the injured person has asserted a claim against another person for damages  
15 based on the injury.

16 Section 10. That chapter 44-12 be amended by adding thereto a NEW SECTION to read as  
17 follows:

18 This chapter provides the exclusive method for a hospital, physician, or chiropractor to  
19 obtain a nonjudicial lien on the part or share to be collected by the injured party or the injured  
20 party's heirs or representatives from a third party alleged to be responsible for the injury.

# State of South Dakota

EIGHTIETH SESSION  
LEGISLATIVE ASSEMBLY, 2005

735L0537

HOUSE TAXATION COMMITTEE ENGROSSED NO.

**HB 1210** - 02/10/2005

Introduced by: Representatives Davis, Brunner, Dykstra, Hargens, Jensen, Novstrup, and Weems and Senators Hansen (Tom), Duenwald, Hundstad, Lintz, McNenny, Peterson (Jim), and Schoenbeck

1 FOR AN ACT ENTITLED, An Act to exempt certain contract services from sales and use  
2 taxes.

3 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF SOUTH DAKOTA:

4 Section 1. That chapter 10-45 be amended by adding thereto a NEW SECTION to read as  
5 follows:

6 There are specifically exempted from the provisions of this chapter and from the  
7 computation of the tax imposed by it, gross receipts from management, specialist, billing,  
8 bookkeeping, administrative, and related services provided to a local cooperative by a regional  
9 cooperative, or any cooperative or limited liability company which is wholly or in part owned  
10 by the cooperative or limited liability company receiving such services. If the such cooperative  
11 or limited liability is owned in part, the cooperative or limited liability company shall own  
12 eighty percent or more of such cooperative or limited liability receiving such services to be  
13 qualified for the exemption provided by this section.

14 Section 2. That chapter 10-46 be amended by adding thereto a NEW SECTION to read as



1 follows:

2       There are specifically exempted from the provisions of this chapter and from the  
3 computation of the tax imposed by it, gross receipts from management, specialist, billing,  
4 bookkeeping, administrative, and related services provided to a local cooperative by a regional  
5 cooperative, or any cooperative or limited liability company which is wholly or in part owned  
6 by the cooperative or limited liability company receiving such services. If the such cooperative  
7 or limited liability is owned in part, the cooperative or limited liability company shall own  
8 eighty percent or more of such cooperative or limited liability receiving such services to be  
9 qualified for the exemption provided by this section.



# State of South Dakota

EIGHTIETH SESSION  
LEGISLATIVE ASSEMBLY, 2005

327L0574

## HOUSE TAXATION COMMITTEE ENGROSSED NO. **HB 1237** - 02/10/2005

Introduced by: Representatives Dykstra, Boomgarden, Deadrick, Haley, Hargens, Putnam, Sigdestad, Street, and Tidemann and Senators Hansen (Tom), Abdallah, Bartling, Gant, Greenfield, Hanson (Gary), and Peterson (Jim)

1 FOR AN ACT ENTITLED, An Act to reduce the fuel tax on biodiesel blend fuels for a certain  
2 period of time.

3 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF SOUTH DAKOTA:

4 Section 1. That § 10-47B-4 be amended to read as follows:

5 10-47B-4. The fuel excise tax rates for the tax imposed by this chapter are as follows:

- 6 (1) Motor fuel (except ethanol blends, E85 and M85 blends, and aviation gasoline)--\$.22  
7 per gallon;
- 8 (2) Special fuel (except jet fuel and biodiesel blend)--\$.22 per gallon;
- 9 (3) Ethanol blends--\$.20 per gallon;
- 10 (4) Aviation gasoline--\$.06 per gallon;
- 11 (5) Jet fuel--\$.04 per gallon;
- 12 (6) E85 and M85--\$.10 per gallon;
- 13 (7) E85 and M85 used in aircraft--\$.04 per gallon;
- 14 (8) Liquid petroleum gas--\$.20 per gallon;



1       (9)   Compressed natural gas--\$.10 per gallon;

2       (10)   Biodiesel blend--\$.20 per gallon.

3       Section 2. That § 10-47B-4 be amended to read as follows:

4       10-47B-4. The fuel excise tax rates for the tax imposed by this chapter are as follows:

5       (1)   Motor fuel (except ethanol blends, E85 and M85 blends, and aviation gasoline)--\$.22  
6           per gallon;

7       (2)   Special fuel (except jet fuel and biodiesel blend)--\$.22 per gallon;

8       (3)   Ethanol blends--\$.20 per gallon;

9       (4)   Aviation gasoline--\$.06 per gallon;

10      (5)   Jet fuel--\$.04 per gallon;

11      (6)   E85 and M85--\$.10 per gallon;

12      (7)   E85 and M85 used in aircraft--\$.04 per gallon;

13      (8)   Liquid petroleum gas--\$.20 per gallon;

14      (9)   Compressed natural gas--\$.10 per gallon;

15      (10)   Biodiesel blend--\$.22 per gallon.

16      Section 3. Section 2 of this Act is effective on January 1, 2010.

# State of South Dakota

EIGHTIETH SESSION  
LEGISLATIVE ASSEMBLY, 2005

552L0747

HOUSE TAXATION COMMITTEE ENGROSSED NO.

**HB 1240** - 02/10/2005

**This bill has been extensively amended (houghoused) and may no longer be consistent with the original intention of the sponsor.**

Introduced by: Representatives Gillespie and Dykstra and Senator Broderick

1 FOR AN ACT ENTITLED, An Act to require that notice of certain tax equalization decisions  
2 be published.

3 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF SOUTH DAKOTA:

4 Section 1. That § 10-11-26.1 be amended to read as follows:

5 10-11-26.1. The county board of equalization shall give written notice of its decision to be  
6 postmarked on or before the Friday following its adjournment to each person owning property  
7 on which action was taken and to the clerk of the affected local board of equalization. In  
8 addition, the county board of equalization shall publish the minutes in a legal newspaper of the  
9 county in the same manner as other proceedings of the board of county commissioners are  
10 published.

11 Section 2. That § 10-11-44 be amended to read as follows:

12 10-11-44. Any person, firm, limited liability company, corporation, taxing district,  
13 governmental subdivision, or agency interested as described in § 10-11-42 may appeal from a  
14 decision of the county board of equalization to the circuit court in and for such county. Such  
15 appeal shall be filed within thirty days ~~after~~ of the published notice required by § 10-11-26.1 or



1    the written notice that has been served of the decision ~~of~~ by the county board of equalization  
2    ~~and~~, whichever occurred last. The appeal shall be filed in the same manner and upon the same  
3    conditions and terms as other appeals may be taken from decisions of a board of county  
4    commissioners.

# State of South Dakota

EIGHTIETH SESSION  
LEGISLATIVE ASSEMBLY, 2005

742L0509

## HOUSE COMMERCE COMMITTEE ENGROSSED NO. **HB 1248** - 02/10/2005

Introduced by: Representatives McLaughlin, Brunner, Frost, Hanks, Hennies, Jerke, Koistinen, Rausch, and Tornow and Senators Adelstein, Bogue, Duenwald, Duniphan, Hundstad, McNenny, and Olson (Ed)

1 FOR AN ACT ENTITLED, An Act to revise certain provisions regarding money lenders.

2 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF SOUTH DAKOTA:

3 Section 1. That § 54-4-40 be amended to read as follows:

4 54-4-40. Any person who engages in the business of lending money shall apply for a license  
5 as prescribed by §§ 54-4-36 to 54-4-63, inclusive. The applicant shall apply for a license under  
6 oath on forms supplied by the division. The application shall contain the name of the applicant's  
7 business, proof of surety bond, address of the business, the names and addresses of the partners,  
8 members, officers, directors, or trustees, and other information ~~as required by the director by~~  
9 ~~rule or order~~ may consider necessary. The applicant shall pay an original license fee as set by  
10 rules of the commission promulgated pursuant to chapter 1-26 not to exceed one thousand  
11 dollars. If the application of an existing licensee is for an additional location, the application  
12 need only include the location and identity of the location manager, plus any changes from the  
13 existing license, or such other information the director may consider necessary.

14 Section 2. That § 54-4-42 be amended to read as follows:



54-4-42. The applicant shall submit with the application for a license a bond in an amount not to exceed the total of ~~five~~ ten thousand dollars for the first license and ~~one~~ two thousand five hundred dollars for each additional license. The bond shall be satisfactory to the director and issued by a surety company qualified to do business as a surety in this state. The bond shall be in favor of this state for the use of this state and any person who has a cause of action under §§ 54-4-36 to 54-4-63, inclusive, against the licensee. The bond shall be conditioned on:

- (1) The licensee's faithful performance under §§ 54-4-36 to 54-4-63, inclusive, and any rules adopted pursuant to §§ 54-4-36 to 54-4-63, inclusive; and
- (2) The payment of any amounts that are due to the state or another person during the calendar year for which the bond is given.

The aggregate liability of a surety to all persons damaged by a licensee's violation of §§ 54-4-36 to 54-4-63, inclusive, may not exceed the amount of the bond.

Section 3. That § 54-4-43 be amended to read as follows:

54-4-43. The director shall investigate the facts ~~and, after~~ concerning the application. The director may review, either deny or and consider the relevant business records of the applicant and the competence, experience, integrity, and financial ability of any person who is a member, partner, director, officer, or twenty-five percent or more shareholder of the business. If the director finds that the financial responsibility, financial condition, business experience, character, and general fitness of the applicant reasonably warrant the belief that the business will be conducted lawfully and fairly, the director may grant a license based on the findings.

Section 4. That § 54-4-45 be amended to read as follows:

54-4-45. ~~Any license shall be renewed~~ A license expires on July first. To renew a license, the licensee shall file for renewal by June fifteenth. The renewal application shall include a renewal fee not to exceed one thousand dollars, as set by rules of the commission promulgated

pursuant to chapter 1-26, proof of surety bond, and any other information as required by the director, by rule or order. Any licensee that files for renewal after June fifteenth and before July first shall pay a late fee in addition to the renewal fee. The late fee, not to exceed twenty-five percent of the renewal fee, shall be established by the commission in rules promulgated pursuant to chapter 1-26. After June thirtieth no license may be issued unless an application is filed pursuant to § 54-4-40.

Section 5. That § 54-4-48 be amended to read as follows:

54-4-48. The director may, ~~upon ten days notice to the licensee,~~ issue a cease and desist order from any practice that does not conform to the requirements set forth in §§ 54-4-36 to 54-4-63, inclusive, or ~~rules any commission rule adopted by commission, order, or condition imposed in writing, or any federal statute, rule, or regulation pertaining to consumer credit. A~~ cease and desist order may be issued to any licensee or to any person engaging in the business of lending money without a license. A licensee aggrieved by such order may appeal pursuant to chapters 1-26 and 1-26D.

Section 6. That § 54-4-49 be amended to read as follows:

54-4-49. The director may suspend or revoke a license for good cause pursuant to ~~chapter~~ chapters 1-26 and 1-26D. If the licensee is the holder of more than one license, the director may suspend or revoke any or all of the licenses. For purposes of this section, good cause includes any of the following:

- (1) Violation of any statute, rule, order, or written condition of the commission or any federal statute, rule, or regulation pertaining to consumer credit;
- (2) Engaging in harassment or abuse, the making of false or misleading representations, or engaging in unfair practices involving lending activity; or
- (3) Performing an act of commission or omission or practice that is a breach of trust or

1           a breach of fiduciary duty.

2           Section 7. That § 54-4-50 be amended to read as follows:

3           54-4-50. An action may ~~also~~ be brought in circuit court by the attorney general or the  
4           division, or both, to enjoin a licensee from engaging in or continuing a violation or from doing  
5           any act in furtherance thereof. ~~In any action, an order or judgment may be entered awarding a~~  
6           ~~temporary or permanent injunction.~~

7           Section 8. That § 54-4-57 be amended to read as follows:

8           54-4-57. The division ~~shall~~ may annually, or as often as the director considers necessary,  
9           conduct an examination of business records and accounts of any licensee licensed under §§ 54-  
10          4-36 to 54-4-63, inclusive. ~~The director may order an examination if circumstances require a~~  
11          ~~special examination.~~ The director may charge back to the licensee any cost associated with an  
12          on-site examination. The director may waive an on-site examination and only require an annual  
13          self-examination. If a licensee conducts a self-examination, the licensee shall provide any  
14          information requested under oath and on forms provided by the division by order or rule.

15          Section 9. That chapter 54-4 be amended by adding thereto a NEW SECTION to read as  
16          follows:

17          If the division requires the production of records that are located outside this state, the party  
18          shall either make them available to the division at a convenient location within this state or pay  
19          the reasonable and necessary expenses for the division to examine them at the place where they  
20          are maintained. The director may designate representatives, including officials of the state in  
21          which the records are located, to inspect them on the director's behalf.

22          Section 10. That chapter 54-4 be amended by adding thereto a NEW SECTION to read as  
23          follows:

24          A person licensed pursuant to this Act shall appoint a resident agent for service of process



1 and provide notice of such appointment to the director.

2 Section 11. That chapter 54-4 be amended by adding thereto a NEW SECTION to read as  
3 follows:

4 A person licensed pursuant to this Act shall consent to be sued in the circuit courts of the  
5 state for purposes of the director enforcing any provision of chapter 54-4 and any rules  
6 promulgated pursuant to chapter 54-4. The consent to suit shall be demonstrated by the  
7 execution and submission of a consent to suit form prepared by the director, with proof of  
8 authority to consent and execute the form.

# State of South Dakota

EIGHTIETH SESSION  
LEGISLATIVE ASSEMBLY, 2005

299L0085

HOUSE LOCAL GOVERNMENT COMMITTEE

ENGROSSED NO. **HB 1253** - 02/08/2005

Introduced by: Representatives Garnos and Elliott and Senator Olson (Ed)

1 FOR AN ACT ENTITLED, An Act to allow for the establishment of a group health insurance  
2 plan for political subdivision employees.

3 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF SOUTH DAKOTA:

4 Section 1. That chapter 3-12A be amended by adding thereto a NEW SECTION to read as  
5 follows:

6 The Bureau of Personnel may establish a group health insurance plan, a group dental  
7 insurance plan, or both, for employees of any political subdivision. The plan may provide for  
8 group health and dental insurance against the financial cost of hospital, surgical, and medical  
9 treatment and care, and such other coverage or benefits, including a group life insurance plan  
10 and a group disability income insurance plan, as may be deemed appropriate and desirable by  
11 the commissioner. The commissioner may design a cafeteria-style benefit plan which allows an  
12 employee of any political subdivision to choose the employee's own benefits or levels of  
13 coverage.

14 The Bureau of Personnel may promulgate rules pursuant to chapter 1-26 to establish uniform  
15 procedures for the administration of such a plan and to provide for uniform application of the



1 plan. The rules may be adopted in the following areas:

2 (1) Participation in the plan by employees, retired employees, and dependents;

3 (2) Procedures for election of coverage;

4 (3) Effective dates of coverage where not specified by statute;

5 (4) Termination of coverage;

6 (5) Changes in dependent coverage;

7 (6) Collection of premiums;

8 (7) The procedure and conditions for membership for a political subdivision to elect to  
9 join the group health insurance plan; and

10 (8) A method to allocate the cost of claims and administrative costs back to a  
11 participating political subdivision.

# State of South Dakota

## EIGHTIETH LEGISLATIVE ASSEMBLY, 2005

400L0230

### SENATE JUDICIARY COMMITTEE ENGROSSED NO. **SB 12 - 01/21/2005**

Introduced by: The Committee on Judiciary at the request of the Department of Social  
Services

1 FOR AN ACT ENTITLED, An Act to authorize a parent to appear telephonically for a hearing  
2 to voluntarily terminate parental rights.

3 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF SOUTH DAKOTA:

4 Section 1. That § 25-5A-14 be amended to read as follows:

5 25-5A-14. The personal presence of one parent at the hearing is required for jurisdictional  
6 purposes. However, ~~any~~ for good cause shown, and upon notice to any other person or  
7 authorized agency whose consent is required pursuant to § 25-5A-6, the court may permit the  
8 parent to appear telephonically if the parent does so in the physical presence of a person  
9 designated by the court to monitor the parent's appearance. Any other person whose consent is  
10 necessary; may appear by filing with the court a power of attorney. If the Department of Social  
11 Services or a licensed child placement agency has custody of a child by written agreement of  
12 a parent with power of attorney to consent, the secretary or an authorized agent may appear and  
13 consent. Notwithstanding the foregoing provisions of this section, due regard shall be given to  
14 the Indian Child Welfare Act (25 U.S.C. 1901 to 1963, inclusive,) as in effect on January 1,  
15 2005, if applicable.



# State of South Dakota

EIGHTIETH  
LEGISLATIVE ASSEMBLY, 2005

400L0314

## HOUSE HEALTH AND HUMAN SERVICES COMMITTEE ENGROSSED NO. **SB 41** - 02/07/2005

Introduced by: The Committee on Health and Human Services at the request of the  
Department of Health

1 FOR AN ACT ENTITLED, An Act to revise certain provisions regarding access to vital  
2 records.

3 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF SOUTH DAKOTA:

4 Section 1. That § 34-25-1.1 be amended by adding thereto a NEW SUBDIVISION to read  
5 as follows:

6 "Authorized representative," an attorney, physician, funeral director, or other designated  
7 agent acting on behalf of the family.

8 Section 2. That § 34-25-8 be amended to read as follows:

9 34-25-8. The birth of every child born in this state shall be registered as provided in this  
10 chapter. Within seven days after the date of each live birth, there shall be filed with the  
11 department by electronic means if a facility has such capabilities, or otherwise if electronic  
12 means are not available, a certificate of such birth, ~~which.~~ The certificate shall be upon the form  
13 prescribed by the department. For certificates of birth filed after seven days, but within one year  
14 from the date of birth, the department may, by rules promulgated pursuant to chapter 1-26,  
15 require additional evidence in support of the facts of birth.



1       ~~Certified~~ Informational copies of birth records shall be available to any person who can  
2       identify the birth record by providing the name of the person on the birth record, the date of  
3       birth, the mother's maiden name, or additional information required to locate the record.  
4       Nothing in this section prohibits the release of information contained on a birth record which  
5       would not identify any person named in the record.

6       If one hundred years have elapsed after the date of birth, the records of the birth in the  
7       custody of the department shall become available to the public without restriction. The  
8       department shall promulgate rules, pursuant to chapter 1-26, to provide for the continued  
9       safekeeping of these records.

10      Section 3. That § 34-25-52 be amended to read as follows:

11      34-25-52. ~~The Department of Health shall upon request supply to any applicant a certified~~  
12      ~~copy of the record of any birth, death, fetal death, marriage, or divorce registered under the~~  
13      ~~provisions of this chapter, for the making and certification of which he shall be entitled to a fee~~  
14      ~~based upon administrative cost as established by the department pursuant to chapter 1-26 to be~~  
15      ~~paid by the applicant. Information in vital records indicating that a birth occurred out of wedlock~~  
16      ~~shall not be disclosed except as provided by regulation or upon order of a court of competent~~  
17      ~~jurisdiction. Any record or a certified copy thereof shall be prima facie evidence in all of the~~  
18      ~~courts of this state of the facts therein stated~~ The department or authorized local registrars shall,  
19      upon receipt of an application, issue a certified copy of a vital record to the registrant or the  
20      registrant's spouse, children, parents, guardian, next of kin, or authorized representative. The  
21      department may authorize others to obtain certified copies in response to a demonstration that  
22      the record is needed for the determination or protection of a personal or property right. The  
23      department or authorized local registrars shall upon receipt of an application, issue  
24      informational copies to any applicant of any vital record. The department or authorized local

1 registrar may withhold the immediate issuance of any certified copy for a period of no longer  
2 than three days. The department shall be entitled to a fee based upon administrative cost as  
3 established by the department pursuant to chapter 1-26 for each search of the files and records.  
4 The fee shall be paid in advance by the applicant and shall not be in addition to the fee  
5 hereinbefore provided for the making and certification of the record but shall be applied in  
6 payment thereof if the record is found.

7 Section 4. That chapter 34-25 be amended by adding thereto a NEW SECTION to read as  
8 follows:

9 All forms and procedures used in the issuance of certified and informational copies of vital  
10 records shall be uniform and shall be provided or approved by the state registrar. The  
11 department shall promulgate rules pursuant to chapter 1-26 to determine application  
12 requirements for a certified and an informational copy of a vital record, acceptable proof of  
13 identity, and the features required in a certified or informational copy.

14 Section 5. That chapter 34-25 be amended by adding thereto a NEW SECTION to read as  
15 follows:

16 Nothing in this chapter may be construed to permit disclosure of information contained in  
17 the "Information for Medical and Health Use Only" section of the birth certificate or the  
18 "Information for Statistical Purposes Only" section of the certificate of marriage or certificate  
19 of divorce unless specifically authorized by the department for statistical or research purposes.  
20 Such data is not subject to subpoena or court order and is not admissible before any court,  
21 tribunal, or judicial body.

22 Section 6. That chapter 34-25 be amended by adding thereto a NEW SECTION to read as  
23 follows:

24 To protect the integrity of vital records, ensure their proper use, and to ensure the efficient

1 and proper administration of the vital records system, no employee of the state vital records  
2 office, local registrar, or deputy registrar may permit inspection of any vital record or disclose  
3 information contained in any vital record or issue a copy of all or part of any such record unless  
4 authorized by this chapter or a court of competent jurisdiction.

5 Section 7. That § 34-25-57 be amended to read as follows:

6 34-25-57. No person, officer, agent, or employee of any other person or of any corporation  
7 or partnership may:

- 8 (1) Inter, cremate, or otherwise finally dispose of a dead body of a human being or  
9 permit the same to be done or remove the body from the state without authority of  
10 a burial or removal permit;
- 11 (2) Refuse or fail to furnish any information in such person's possession or furnish false  
12 information affecting any certificate or record required by this chapter;
- 13 (3) Intentionally falsify any certificate of birth, death, or burial or removal permit or any  
14 record required by this chapter;
- 15 (4) Being required by this chapter to fill out a certificate of birth or death and file the  
16 certificate with the local registrar or deliver it upon request to any person charged  
17 with the duty of filing the certificate, fail, neglect, or refuse to perform;
- 18 (5) Being an employee of the state vital records office, a local registrar or deputy  
19 registrar, intentionally fail, neglect, or refuse to perform the duty as required by this  
20 chapter or by the rules adopted by the secretary of health or by the instructions and  
21 directions of the department;
- 22 (6) Intentionally make, counterfeit, alter, amend, or mutilate any certificate, record, or  
23 report required by this chapter or a certified copy of the certificate, record, or report  
24 for the purpose of deception;



- 1       (7) Obtain, possess, use, sell, or furnish to another, or attempt to obtain, possess, use,  
2       sell, or furnish to another, any certificate, record, or report, or certified copy thereof,  
3       required by this chapter, whether altered in any manner or not, for any purpose of  
4       deception; or
- 5       (8) Possess any certificate, record, or report, or copy thereof, required by this chapter,  
6       knowing that the certificate, record, or report, or copy thereof, was stolen or  
7       otherwise obtained unlawfully.

8       A violation of this section is a Class 1 misdemeanor.

9       Section 8. That chapter 34-25 be amended by adding thereto a NEW SECTION to read as  
10      follows:

11       No employee of the state vital records office, local registrar, or deputy registrar may be held  
12      personally liable for any unintentional issuance of any certified copy of any vital record  
13      fraudulently obtained.

# State of South Dakota

EIGHTIETH SESSION  
LEGISLATIVE ASSEMBLY, 2005

679L0099

SENATE LOCAL GOVERNMENT COMMITTEE

ENGROSSED NO. **SB 73** - 01/31/2005

Introduced by: Senators Lintz, McNenny, and Napoli and Representatives Pederson  
(Gordon), Brunner, Howie, and McCoy

1 FOR AN ACT ENTITLED, An Act to revise the power of rural fire protection districts to  
2 contract with certain entities.

3 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF SOUTH DAKOTA:

4 Section 1. That § 34-31A-18 be amended to read as follows:

5 34-31A-18. Any rural fire protection district may ~~elect to~~ enter into a contract with another  
6 rural fire protection district to consolidate or cooperate for mutual fire protection and prevention  
7 purposes, or may enter into a contract with any federal, state, or local government agency for  
8 fire protection service or fire protection cooperation upon terms suitable to all concerned, ~~and~~  
9 ~~power.~~ Power to make such contracts is hereby conferred upon such state or local government  
10 agency in addition to such powers as are otherwise provided by law. Any rural fire protection  
11 district may enter into a contract with any nonprofit corporation, organized under the laws of  
12 this state and whose sole purpose is fire protection, for fire protection service or fire protection  
13 cooperation upon terms suitable to all concerned. Any contract between a rural fire protection  
14 district and a nonprofit corporation that was entered into prior to the effective date of this Act,  
15 and which now complies with the provisions of this section is hereby declared to be valid and



1 legal.

# State of South Dakota

EIGHTIETH SESSION  
LEGISLATIVE ASSEMBLY, 2005

249L0142

SENATE LOCAL GOVERNMENT COMMITTEE

ENGROSSED NO. **SB 86** - 01/26/2005

Introduced by: Senators Duenwald, Broderick, Gray, Koskan, and Olson (Ed) and  
Representatives Rounds, Davis, Hennies, Jensen, and Murschel

1 FOR AN ACT ENTITLED, An Act to revise the compensation for deputy coroners.

2 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF SOUTH DAKOTA:

3 Section 1. That § 7-14-9 be amended to read as follows:

4 7-14-9. The coroner may appoint one or more deputies and ~~such deputies~~ each deputy shall  
5 receive ~~the same~~ fees and expenses as ~~the coroner~~, but determined at the discretion of the board  
6 of the county commissioners. The deputy coroner may not receive a salary.



# State of South Dakota

EIGHTIETH SESSION  
LEGISLATIVE ASSEMBLY, 2005

690L0525

SENATE LOCAL GOVERNMENT COMMITTEE

ENGROSSED NO. **SB 96** - 01/26/2005

Introduced by: Senators Duenwald and Nesselhuf and Representatives Schafer, Boomgarden,  
Davis, Hackl, and Kroger

1 FOR AN ACT ENTITLED, An Act to allow municipalities to offer full food services at certain  
2 licensed municipal facilities and to declare an emergency.

3 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF SOUTH DAKOTA:

4 Section 1. That chapter 35-4 be amended by adding thereto a NEW SECTION to read as  
5 follows:

6 Any municipality holding a license pursuant to Title 35 may serve or provide for the service  
7 of food at any establishment operating under such license.

8 Section 2. Whereas, this Act is necessary for the support of the state government and its  
9 existing public institutions, an emergency is hereby declared to exist, and this Act shall be in  
10 full force and effect from and after its passage and approval.



# State of South Dakota

## EIGHTIETH SESSION LEGISLATIVE ASSEMBLY, 2005

716L0581

### SENATE ENGROSSED NO. **SB 103** - 02/04/2005

Introduced by: Senators Broderick, Gray, Moore, Nesselhuf, and Sutton (Duane) and  
Representatives Frysliie, Faehn, Haley, Pederson (Gordon), Rounds, and  
Willadsen

1 FOR AN ACT ENTITLED, An Act to authorize the funding of public transportation from the  
2 state highway fund and to repeal certain obsolete provisions regarding the state highway  
3 fund.

4 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF SOUTH DAKOTA:

5 Section 1. That § 10-12-6 be repealed.

6 ~~— 10-12-6. The secretary of revenue and regulation may levy annually a sufficient tax, not to~~  
7 ~~exceed one-tenth of one dollar per thousand dollars taxable valuation for any year upon each~~  
8 ~~dollar of the taxable valuation of all taxable property in this state, to provide a special fund in~~  
9 ~~the state treasury to be known as the state highway fund. All money received by the state~~  
10 ~~treasurer pursuant to such levy shall be placed in such fund, to be used and expended under the~~  
11 ~~direction of the Department of Transportation, for the purpose of constructing and maintaining~~  
12 ~~highways and bridges in this state and paying the salaries and expenses of the Department of~~  
13 ~~Transportation, as the same may be appropriated for these purposes by the Legislature.~~

14 Section 2. That chapter 31-2 be amended by adding thereto a NEW SECTION to read as  
15 follows:



1       There is created a special fund in the state treasury to be known as the state highway fund.  
2       All moneys in the fund shall be used and expended under the direction of the Department of  
3       Transportation, for the purpose of constructing and maintaining highways and bridges in this  
4       state, paying the salaries and expenses of the Department of Transportation, and funding public  
5       transportation, as the moneys may be appropriated for these purposes by the Legislature.

6       Section 3. That § 31-2-14.2 be amended to read as follows:

7       31-2-14.2. All moneys in the state highway fund shall be used only for the construction,  
8       maintenance, and supervision of highways and bridges in this state ~~and~~, for the administrative  
9       costs necessary to perform such duties, and for the funding of public transportation.